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FILED
ALAMEDA COUNTY

NOV 08 2024

CLERK OF THE SUPERIOR COURT
 By Nicole [Signature]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

TOM TESENE, individually, and on behalf of
 other members of the general public similarly
 situated;

Plaintiff,

v.

CAMBRIA COMPANY, LLC, a Minnesota
 limited liability company; and DOES 1 through
 100, inclusive;

Defendants.

TOM TESENE, individually, and on behalf of
 aggrieved employees pursuant to the Private
 Attorneys General Act ("PAGA");

Plaintiff,

v.

CAMBRIA COMPANY LLC; a Minnesota
 limited liability company; and DOES 1
 through 100, inclusive;

Defendant.

Case No.: 22CV014439
 [Consolidated with Case No. 22CV014587]

Assigned for All Purposes to:
 Honorable Noël Wise
 Department 21

CLASS ACTION

**[PROPOSED] ORDER OF FINAL
 APPROVAL AND JUDGMENT**

[Reservation ID 487145613536]

Hearing Date: November 18, 2024
 Hearing Time: 1:30 p.m.
 Hearing Place: Department 21

Complaint Filed: July 15, 2022
 Trial Date: None Set

Case No.: 22CV014587
 [Consolidated with Case No. 22CV014439]

Complaint Filed: July 18, 2022
 Trial Date: None Set

1 The Court, having read the papers filed regarding Plaintiff Tom Tesene's ("Plaintiff")
2 Motion for Final Approval of Class Action Settlement, and considering the papers submitted in
3 support of the motion, including the Class Action and PAGA Settlement Agreement ("Settlement
4 Agreement," "Settlement," or "Agreement"), hereby **FINDS AND ORDERS**:

5 Plaintiff and Defendant Cambria Company, LLC ("Defendant") entered the Settlement
6 Agreement to settle this lawsuit on or about April 23, 2024.

7 The Court entered an order dated May 28, 2024 preliminarily approving the settlement of
8 this lawsuit ("Preliminary Approval Order"), consistent with the Code of Civil Procedure section
9 382 and California Rule of Court 3.769, ordering notice to be sent to the Class Members,
10 providing the Class Members with an opportunity to object to the Settlement or exclude
11 themselves from the Class, and scheduling a Final Approval Hearing.

12 On November 18, 2024, the Court held a Final Approval Hearing to determine whether to
13 give final approval to the Settlement of this lawsuit.

14 1. Incorporation of Other Documents. This Order of Final Approval and Judgment
15 ("Order and Judgment") incorporates the Settlement Agreement. Unless otherwise provided
16 herein, all capitalized terms in this Order and Judgment shall have the same meaning as set forth
17 in the Settlement Agreement.

18 2. Jurisdiction. Because adequate notice has been disseminated and the Class has
19 been given the opportunity to request exclusion, the Court has personal jurisdiction with respect
20 to the claims of all Class Members. The Court has subject matter jurisdiction over this lawsuit,
21 including jurisdiction to approve the Settlement and grants final certification of the Class.

22 3. Final Class Certification. The Court finds that the Class satisfies all applicable
23 requirements of Code of Civil Procedure section 382, California Rule of Court 3.769, and due
24 process. The Court certifies the Class consisting of all current and former hourly-paid or non-
25 exempt employees of Defendant within the State of California during the period from January
26 15, 2018, through May 28, 2024 ("Class," "Class Members," and "Class Period"). There are one
27 hundred ninety-one (191) Class Members who did not submit valid and timely Requests for
28 Exclusion from the Settlement ("Participating Class Members").

1 4. Adequacy of Representation. Class Counsel fully and adequately represented the
2 Class for the purposes of entering and implementing the Settlement and satisfied the
3 requirements of Code of Civil Procedure section 382.

4 5. Class Notice. The Court finds that the Court Approved Notice of Class Action
5 Settlement and Hearing Date for Final Court Approval (“Class Notice”) and its distribution to the
6 Class Members were implemented pursuant to the Settlement and this Court’s Preliminary
7 Approval Order. The Court also finds the Class Notice:

- 8 a. constitutes notice reasonably calculated to apprise the Class Members of: (i)
9 pendency of this lawsuit; (ii) material terms and provisions of the Settlement
10 Agreement and their rights; (iii) their right to object to any aspect of the
11 Settlement Agreement; (iv) their right to exclude themselves from the Settlement
12 Agreement; (v) their right to receive settlement payments; (vi) their right to
13 appear at the Final Approval Hearing; and (vii) binding effect of the orders and
14 judgment in this lawsuit on all the Participating Class Members;
15 b. constitutes notice that fully satisfied the requirements of Code of Civil Procedure
16 section 382, California Rule of Court 3.769, and due process;
17 c. constitutes the best practicable notice to the Class Members under the
18 circumstances of this lawsuit; and
19 d. constitutes notice reasonable, adequate, and sufficient to the Class Members.

20 6. Enforcement of Settlement. Nothing in this Order and Judgment shall preclude
21 any action to enforce the terms and provisions of the Settlement Agreement.

22 7. Final Settlement Approval. The terms and provisions of the Settlement
23 Agreement have been entered into in good faith and are the product of arm’s-length negotiations
24 by experienced counsel who have carried out a meaningful investigation of the claims. The
25 Settlement Agreement and all its terms and provisions are fully and finally approved as fair,
26 reasonable, adequate, and in the best interests of the Parties. The Parties are hereby directed to
27 implement the Settlement Agreement according to its terms and provisions.

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1 8. Binding Effect. The terms and provisions of the Settlement Agreement and this
2 Order and Judgment are binding on Plaintiff, Participating Class Members, Aggrieved
3 Employees, and their spouses, heirs, registered domestic partners, executors, administrators,
4 successors, and assigns. In addition, those terms shall have res judicata and other preclusive
5 effect in all pending and future claims, lawsuits, or other proceedings maintained by or on behalf
6 of any such persons to the extent those claims, lawsuits, or other proceedings involve matters
7 that were or could have been raised in this lawsuit and are encompassed by the Released Class
8 Claims and Released Private Attorneys General Act of 2004 ("PAGA") Claims.

9 9. Release by Participating Class Members. Effective on the date when Defendant
10 fully funds the Gross Settlement Amount and all employer's payroll taxes owed on the Wage
11 Portion of the Individual Class Payments, all Participating Class Members, on behalf of
12 themselves and their former and present representatives, agents, attorneys, heirs, administrators,
13 successors, transferees, and assigns, release the Released Parties from the Released Class Claims.

14 a. Release by the State of California. Effective on the date when Defendant fully
15 funds the Gross Settlement Amount and all employer's payroll taxes owed on the
16 Wage Portion of the Individual Class Payments, Plaintiff, as an agent and proxy
17 of the State of California, and State of California itself (including the California
18 Labor and Workforce Development Agency ("LWDA")) are deemed to release
19 the Released Parties from the Released PAGA Claims.

20 b. Plaintiff's Release. Effective on the date when Defendant fully funds the Gross
21 Settlement Amount and all employer's payroll taxes owed on the Wage Portion of
22 the Individual Class Payments, Plaintiff and his former and present spouses,
23 representatives, agents, attorneys, heirs, administrators, successors, transferees,
24 and assigns generally release and discharge the Released Parties from the
25 Plaintiff's Release. Plaintiff also expressly waives and relinquishes the provisions,
26 rights, and benefits, if any, of section 1542 of the Civil Code.

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1 c. Released Parties. The Released Parties include Defendant and each of its former
2 and present directors, officers, shareholders, owners, members, agents,
3 employees, attorneys, insurers, parent companies, predecessors, successors,
4 assigns, subsidiaries, affiliates, representatives, heirs, executors, administrators,
5 and transferees.

6 10. Class Representative Service Payment. The Court finds that the Class
7 Representative Service Payment of \$^{7,500}~~10,000~~, to be paid by Defendant to Plaintiff out of the Gross
8 Settlement Amount, to be reasonable and appropriate. The Class Representative Service Payment
9 is to be paid pursuant to the terms and provisions set forth in the Agreement.

10 a. The rationale for making enhancement payments is class representatives should
11 be compensated for the expense and risk they incurred in conferring a benefit on
12 the Class. Criteria courts consider include: (i) risk to the class representatives in
13 commencing suit; (ii) notoriety and personal difficulties; (iii) amount of time and
14 effort spent by the class representatives; (iv) duration of the litigation; and (v)
15 personal benefit (or lack thereof) enjoyed by class representatives.

16 b. The Court reviewed Plaintiff's declaration outlining his involvement. Given the
17 risks inherent in the services as the class representative, duration of the case and
18 time involved, and benefits created for the Class, the Court approves the payment
19 of the Class Representative Service Payment of \$10,000 to Plaintiff.

20 11. Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment.
21 The Court finds that the Class Counsel Fees Payment of \$^{261,336}~~304,892~~, to be paid by Defendant to
22 Class Counsel out of the Gross Settlement Amount, to be reasonable and appropriate.
23 Additionally, the Court finds that the Class Counsel Litigation Expenses Payment as
24 reimbursement for actual litigation costs incurred of \$19,475.68, to be paid by Defendant to
25 Class Counsel out of the Gross Settlement Amount, to be reasonable and appropriate. Such fees
26 and costs are to be paid pursuant to the terms and provisions set forth in the Settlement
27 Agreement. Defendant shall not be required to pay for any other attorneys' fees and expenses,
28 costs, or disbursements incurred by Class Counsel or any other counsel representing Plaintiff or

1 Class Members. Defendant shall also not be required to pay for any other attorneys' fees and
2 expenses, costs, or disbursements incurred by Plaintiff or Class Members in connection with or
3 related in any manner to this lawsuit, Settlement Agreement, settlement administration, and/or
4 Released Class Claims and Released PAGA Claims.

5 a. The Court has an independent right and responsibility to review the Class Counsel
6 Fees Payment and only award so much as it determines reasonable. (See
7 *Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123,
8 127-128.) The Class Counsel Fees Payment of ~~\$304,892~~^{261,336} is thirty-five percent
9 (~~35~~³⁰%) of the common fund created for the benefit of the Class and is supported by
10 use of the percentage-fee method. (See *Laffitte v. Robert Half International, Inc.*
11 (2016) 1 Cal.5th 480, 504.)¹ Considering the results achieved, financial risk
12 undertaken, difficult nature of this litigation, skills required, percentage fees
13 award in previous and other cases, and contingent fees charged in the
14 marketplace, the Court finds that the Class Counsel Fees Payment is consistent
15 with the marketplace, is reasonable, and is approved.

16 b. The Court reviewed the declaration of Douglas Han regarding the costs expended
17 in prosecuting this case. Under the terms of the Settlement, Class Counsel may
18 seek reimbursement of up to \$25,000 in litigation costs. The Court finds that
19 Class Counsel expended \$19,475.68 in litigation costs, and that such costs were
20 reasonable. Thus, the Court approves the payment of the Class Counsel Litigation
21 Expenses Payment of \$19,475.68 from the common fund for the reimbursement
22 of Class Counsel's litigation costs.

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27 ¹ After receiving and reviewing the Class Data, the Administrator determined that the
28 Escalator Clause as triggered, increasing the Gross Settlement Amount to \$871,120. Since
the Class Counsel Fees Payment is thirty-five percent (35%) of the Gross Settlement
Amount, the Class Counsel Fees Payment also increased to \$304,892.

1 12. Administration Expenses Payment. The Court finds that the Administration
2 Expenses Payment of \$8,750, to be paid by Defendant to the Administrator out of the Gross
3 Settlement Amount, to be reasonable and appropriate. The Administration Expenses Payment are
4 to be paid pursuant to terms and provisions set forth in the Settlement Agreement.

5 a. The Court reviewed the declaration of Yami Burns from Phoenix Class Action
6 Administration Solutions, the Court-approved Administrator. The Court finds that
7 notice was provided to the Class pursuant to the Preliminary Approval Order,
8 constitutes the best practicable notice to the Class, and satisfied due process.
9 Thus, the Court approves the payment of the Administration Expenses Payment of
10 \$8,750 for the Administrator's services in administering the Settlement.

11 13. PAGA Penalties. The Court finds that the PAGA Penalties of \$80,000, seventy-
12 five percent (75%) of which (\$60,000) will be paid to the LWDA out of the Gross Settlement
13 Amount and twenty-five percent (25%) of which (\$20,000) shall be distributed to the Aggrieved
14 Employees, on a pro rata basis, to be reasonable and appropriate. The PAGA Penalties is to be
15 paid pursuant to the terms and provisions set forth in the Settlement Agreement.

16 14. Funding the Gross Settlement Amount. Defendant shall fully fund the Gross
17 Settlement Amount and amounts necessary to fully pay employer's share of payroll taxes by
18 transmitting the funds to the Administrator no later than fourteen (14) calendar days after the
19 Effective Date. Within fourteen (14) calendar days after Defendant funds the Gross Settlement
20 Amount, the Administrator will mail checks to the appropriate entities and persons.

21 15. Fairness of the Settlement. As noted in the Preliminary Approval Order, the
22 Settlement is entitled to a presumption of fairness. In the moving papers, Plaintiff contends the
23 Settlement was the product of arm's-length negotiations following extensive litigation,
24 discovery, and exchange of documentation. The negotiations were facilitated with the aid of
25 Lynn S. Frank, an experienced and well-respected mediator.

26 a. The fairness of the Settlement is demonstrated by there being no objections to and
27 no requests for exclusion from the Settlement.

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b. The fairness of the Settlement is further illustrated by the gross *average* Individual Class Payment being approximately \$2,346.56, and the gross *highest* Individual Class Payment being about \$9,845.20.

16. Uncashed Checks. The Class Members must cash or deposit their settlement checks within one hundred eighty (180) calendar days after the checks are mailed to them. Uncashed settlement checks will be transmitted to the *cy pres* recipient Legal Aid At Work.

17. Modification of Agreement. The Participating Class Members are hereby authorized to agree to and adopt amendments to or modifications of the Agreement by an express written instrument signed by all Parties or their representatives and approved by the Court. Such amendments or modifications shall be consistent with this Order and Judgment and cannot limit the rights of the Participating Class Members under the Agreement.

18. Final Accounting and Compliance. The Court sets a Compliance Hearing for July 11, 2025 in Department 21. Within five (5) court days before this hearing, Plaintiff shall file a compliance status report. Pursuant to Code of Civil Procedure section 384, the compliance status report shall specify the total amount paid to Class Members and the residual of the unclaimed settlement funds that will be paid to the entity identified as the recipient of such funds in the Settlement Agreement, along with a proposed amended judgment to facilitate this payment.

a. Holdback Provision – Ten percent (10%) of the Class Counsel Fees Payment (\$30,489.20) shall be held in an interest-bearing account, maintained by the Administrator, pending the submission and approval of a final compliance status report after completion of the distribution process.

19. Retention of Jurisdiction. The Court has jurisdiction to enter this Order and Judgment. This Court expressly retains jurisdiction for the administration, interpretation, effectuation, and/or enforcement of the Settlement Agreement and of this Order and Judgment, and for any other necessary purpose, including, without limitation:

a. enforcing the terms and provisions of the Settlement and resolving any disputes, claims, or causes of action in this lawsuit that, in whole or in part, are related to or arise out of the Settlement or this Order and Judgment;

- 1 b. entering such additional orders as may be necessary or appropriate to protect or
2 effectuate this Order and Judgment approving the Settlement, and permanently
3 enjoining Plaintiff from initiating or pursuing related proceedings, or to ensure the
4 fair and orderly administration of the Settlement; and
5 c. entering any other necessary or appropriate orders to protect and effectuate this
6 Court's retention of continuing jurisdiction.

7 The Motion for Final Approval of Class Action Settlement, Class Counsel Fees Payment,
8 Class Counsel Litigation Expenses Payment, and Class Representative Service Payment is
9 GRANTED. The Administrator is directed to carry out the terms of the Settlement forthwith.

10 THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS OF
11 THE SETTLEMENT AGREEMENT. PURSUANT TO CALIFORNIA RULES OF COURT
12 3.769, THE COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON THE TERMS
13 OF THIS ORDER AND SETTLEMENT AGREEMENT AND, WITHOUT AFFECTING THE
14 FINALITY OF THIS MATTER, RETAINS EXCLUSIVE AND CONTINUING
15 JURISDICTION TO ENFORCE THIS ORDER, THE SETTLEMENT AGREEMENT, AND
16 THE JUDGMENT THEREON.

17 IT IS SO ORDERED.

18
19 DATED: 11/8/21



HONORABLE NOEL WISE
SUPERIOR COURT JUDGE

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612	FILED Superior Court of California County of Alameda 11/12/2024
PLAINTIFF/PETITIONER: Tom Tesene et al	Chad Finke, Executive Officer / Clerk of the Court By: <u>Nicole Hall</u> Deputy N. Hall
DEFENDANT/RESPONDENT: Cambria Company LLC; a Minnesota limited liability company; et al	
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6	CASE NUMBER: 22CV014439

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order of Final Approval and Judgment entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

Douglas Han
Justice Law Corporation
dhan@justicelawcorp.com

Katherine CATLOS
kcatlos@kdvlaw.com

Dated: 11/12/2024

Chad Finke, Executive Officer / Clerk of the Court

By:

Nicole Hall

N. Hall, Deputy Clerk

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is jtorrez@justicelawcorp.com

On November 12, 2024, I served the foregoing document described as

ORDER OF FINAL APPROVAL AND JUDGMENT

for the following case: **Tesene v. Cambria Company LLC**
LWDA/Court Case No.: **LWDA Case No.: CM-880025-22**
Court Case No.: 22CV014439
Alameda County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

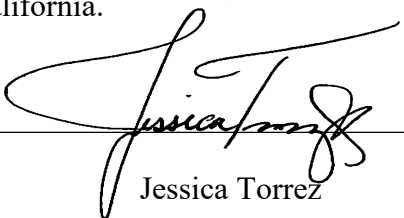
[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 12, 2024, at Pasadena, California.



Jessica Torrez